

State of Hawaii  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Division of Aquatic Resources  
Honolulu, Hawaii 96813

August 12, 2011

Board of Land  
and Natural Resources  
Honolulu, Hawaii

Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Special Ocean Use Permit to Kyle Nakamoto, Red Sea Ocean Adventures, for Access to State Waters to Document Fieldwork and Conduct Filming Activities

The Division of Aquatic Resources (DAR) hereby submits a request for your authorization and approval for issuance of a Papahānaumokuākea Marine National Monument special ocean use permit Kyle Nakamoto, Red Sea Ocean Adventures, pursuant to § 187A-6, Hawaii Revised Statutes (HRS), chapter 13-60.5, Hawaii Administrative Rules (HAR), and all other applicable laws and regulations.

The special ocean use permit, as described below, would allow entry and observational activities to occur in Papahānaumokuākea Marine National Monument (Monument), including the NWHI State Marine Refuge and the waters (0-3 nautical miles) surrounding the following sites:

- Nihoa Island
- Necker Island (Mokumanamana)
- French Frigate Shoals
- Gardner Pinnacles
- Maro Reef
- Laysan Island
- Lisianski Island, Neva Shoal
- Pearl and Hermes Atoll
- Kure Atoll

The activities covered under this permit would occur between August 25, 2011 and September 30, 2011.

The activities being proposed are similar to other work previously permitted and conducted in the Monument.

INTENDED ACTIVITIES

The applicant proposes to film (digital photography and high definition video) underwater marine life, in addition to topside cultural, scenic views and wildlife for the television program "Hawaii Skin Diver" and the magazines "HAWAII SKIN DIVER" and "LAWA'I'A".

The purpose of these activities is to develop two 30-minute episodes for the television program "Hawaii Skin Diver". These episodes would feature a professional freediver, as they explore Papahānaumokuākea Marine National Monument and learn about the important role this area plays in Hawaii's past, present, and future. Filmed from the perspective of the freediver's first-

hand experience, the main proposed goal of this project would be to create awareness of Hawaii's fragile ocean resources and for the importance of perpetuating these precious assets for future generations. Alongside the television program, this activity would also provide media for articles in "HAWAII SKIN DIVER" magazine and "LAWA'I'A" magazine. "HAWAII SKIN DIVER" magazine is distributed nationwide and is an excellent conduit in reaching ocean users. Priority resources would include soft/black corals, sharks, giant trevally, marine turtles, monk seals, bird life, and endemic and invasive species.

To carry out these activities, scenic photos and video would be taken underwater and of land within the Monument. These would be taken either on land, by snorkeling, or SCUBA. Underwater filming would be done primarily by freediving, with SCUBA being used on occasion if deeper dives or longer length of filming shots are needed. In addition to underwater and topside filming, the applicant would conduct interviews with the freediver, researchers, and scientists. Any land access by the applicant would require a Monument-approved escort.

The activities proposed by the applicant directly support the Monument Management Plan's priority management needs through action plan 3.5.2 – Constituency Building and Outreach. This activity would help the Monument by informing and educating the public of the value of the Monument, both from a sustainable and cultural aspect.

The activities described above may require the following regulated activities to occur in State waters:

☒ Swimming, snorkeling, or closed or open circuit SCUBA diving within any Special Preservation Area or Midway Atoll Special Management Area

### REVIEW PROCESS

The permit application was sent out for review and comment to the following scientific and cultural entities: Hawaii Division of Aquatic Resources, Hawaii Division of Forestry and Wildlife, Papahānaumokuākea Marine National Monument (NOAA/NOS), NOAA Pacific Islands Regional Office (NOAA-PIRO), United States Fish and Wildlife Service Hawaiian and Pacific Islands National Wildlife Refuge Complex Office, and the Office of Hawaiian Affairs (OHA). In addition, the permit application has been posted on the Monument Web site since June 10th, giving the public an opportunity to comment. The application was posted within 40 days of its receipt, in accordance with the Monument's Public Notification Policy.

### **Comments received from the scientific community are summarized as follows:**

Scientific reviews support the acceptance of this application. The following concerns were raised:

1. *To what extent will shipboard activities (e.g. other permitted activities like tech diving) be integrated with the applicants' proposed filming activities?*

The Applicant responds that shipboard activities would be limited to the following:

1. Interviews with deputy director at various locations onboard ship.
2. Interviews with some researchers on their work as related to creating awareness of the Monument.

3. B-roll shots of researchers at work would be taken to add visual support for their interviews. The Applicant would not be participating in actual technical diving activities but would get a few shots of researchers gearing up and descending.

**Comments received from the Native Hawaiian community are summarized as follows:**

Cultural reviews support the acceptance of this application. No concerns were raised.

**Comments received from the public are summarized as follows:**

No comments were received from the public on this application.

**Additional reviews and permit history:**

Are there other relevant/necessary permits or environmental reviews that have or will be issued with regard to this project? (e.g. MMPA, ESA, EA) Yes ☒ No ☐  
If so, please list or explain:

- The proposed activities are in compliance with the National Environmental Policy Act.
- The Department has made an exemption determination for this permit in accordance chapter 343, HRS, and Chapter 11-200, HAR. See Attachment ("DECLARATION OF EXEMPTION FROM THE PREPARATION OF AN ENVIRONMENTAL ASSESSMENT UNDER THE AUTHORITY OF CHAPTER 343, HRS AND CHAPTER 11-200 HAR, FOR PAPAĦĀNAUMOKUĀKEA MARINE NATIONAL MONUMENT SPECIAL OCEAN USE PERMIT TO KYLE K. NAKAMOTO, RED SEA ADVENTURES, FOR ACCESS TO STATE WATERS TO DOCUMENT FIELDWORK AND CONDUCT FILMING ACTIVITIES UNDER PERMIT PMNM-2011-038")

Has Applicant been granted a permit from the State in the past? Yes ☐ No ☒  
If so, please summarize past permits:

Have there been any a) violations: Yes ☐ No ☒  
b) Late/incomplete post-activity reports: Yes ☐ No ☒

Are there any other relevant concerns from previous permits? Yes ☐ No ☒

**STAFF OPINION**

DAR staff is of the opinion that Applicant has properly demonstrated valid justifications for his application and should be allowed to enter the NWHI State waters and to conduct the activities therein as specified in the application with certain special instructions and conditions, which are in addition to the Papahānaumokuākea Marine National Monument Special Ocean Use Permit General Conditions. All suggested special conditions have been vetted through the legal counsel of the Co-Trustee agencies (see Recommendation section).

**MONUMENT MANAGEMENT BOARD OPINION**

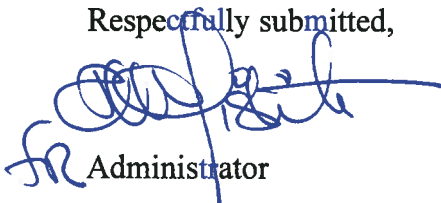
The MMB is of the opinion that the Applicant has met the findings of Presidential Proclamation 8031 and this activity may be conducted subject to completion of all compliance requirements. The MMB concurs with the special conditions recommended by DAR staff.

### RECOMMENDATION

Based on the attached proposed declaration of exemption prepared by the department after consultation with and advice of those having jurisdiction and expertise for the proposed permit actions:

1. That the Board declare that the actions which are anticipated to be undertaken under this permit will have little or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Upon the finding and adoption of the department's analysis by the Board, that the Board delegate and authorize the Chairperson to sign the declaration of exemption for purposes of recordkeeping requirements of chapter 343, HRS, and chapter 11-200, HAR.
3. That the Board authorize and approve a special ocean use permit to Kyle K. Nakamoto, Red Sea Ocean Adventures, with the following special conditions:
  - a. To prevent introduction of disease or the unintended transport of live organisms, the permittee must comply with the disease and transport protocols attached to this permit.
  - b. Tenders and small vessels must be equipped with engines that meet EPA emissions requirements.
  - c. Refueling of tenders and all small vessels must be done at the support ships and outside the confines of lagoons or near-shore waters in the State Marine Refuge
  - d. No fishing is allowed in State Waters except as authorized under State law for subsistence, traditional and customary practices by Native Hawaiians.

Respectfully submitted,



Administrator

APPROVED FOR SUBMITTAL



 William J. Aila, Jr.  
Chairperson

**Papahānaumokuākea Marine National Monument**  
**SPECIAL OCEAN USE Permit Application**

***NOTE: This Permit Application (and associated Instructions) are to propose activities to be conducted in the Papahānaumokuākea Marine National Monument. The Co-Trustees are required to determine that issuing the requested permit is compatible with the findings of Presidential Proclamation 8031. Within this Application, provide all information that you believe will assist the Co-Trustees in determining how your proposed activities are compatible with the conservation and management of the natural, historic, and cultural resources of the Papahānaumokuākea Marine National Monument (Monument).***

**ADDITIONAL IMPORTANT INFORMATION:**

- Any or all of the information within this application may be posted to the Monument website informing the public on projects proposed to occur in the Monument.
- In addition to the permit application, the Applicant must either download the Monument Compliance Information Sheet from the Monument website OR request a hard copy from the Monument Permit Coordinator (contact information below). The Monument Compliance Information Sheet must be submitted to the Monument Permit Coordinator after initial application consultation.
- Issuance of a Monument permit is dependent upon the completion and review of the application and Compliance Information Sheet.

**INCOMPLETE APPLICATIONS WILL NOT BE CONSIDERED**

Send Permit Applications to:

Papahānaumokuākea Marine National Monument Permit Coordinator

6600 Kalaniana'ole Hwy. # 300

Honolulu, HI 96825

nwhipermit@noaa.gov

PHONE: (808) 397-2660 FAX: (808) 397-2662

**SUBMITTAL VIA ELECTRONIC MAIL IS PREFERRED BUT NOT REQUIRED. FOR ADDITIONAL SUBMITTAL INSTRUCTIONS, SEE THE LAST PAGE.**

**Papahānaumokuākea Marine National Monument  
Permit Application Cover Sheet**

This Permit Application Cover Sheet is intended to provide summary information and status to the public on permit applications for activities proposed to be conducted in the Papahānaumokuākea Marine National Monument. While a permit application has been received, it has not been fully reviewed nor approved by the Monument Management Board to date. The Monument permit process also ensures that all environmental reviews are conducted prior to the issuance of a Monument permit.

**Summary Information**

**Applicant Name:** Kyle K. Nakamoto

**Affiliation:** Red Sea Ocean Adventures

**Permit Category:** Special Ocean Use

**Proposed Activity Dates:** August 1-October 31, 2011 (Exact entry dates to be determined by NOAA Team)

**Proposed Method of Entry (Vessel/Plane):** NOAA Vessels, Hi'ialakai

**Proposed Locations:** All islands and atolls within the NWHI - See below Section B, 5a.

**Estimated number of individuals (including Applicant) to be covered under this permit:** 2

**Estimated number of days in the Monument:** 30

**Description of proposed activities:** (complete these sentences):

a.) The proposed activity would...

The proposed activity would be to record high definition video and digital photography of underwater marine life, in addition to topside cultural, scenic views and wildlife to create two 30-minute episodes for the television program, "HAWAII SKIN DIVER". These episodes will feature a TBD professional freediver, as they explore Papahānaumokuākea Monument and learn about the important role it plays in Hawaii's past, present, and future. Filmed from the perspective of the freediver's first-hand experience our main goal is to create awareness of our fragile ocean resources and for the importance of perpetuating these precious assets for future generations. In addition to our television program, we can also provide further exposure through articles in "HAWAII SKIN DIVER" magazine and "LAWA'I'A" magazine. "HAWAII SKIN DIVER" magazine is distributed nationwide and is also an excellent venue to reach intended demographic audience.

b.) To accomplish this activity we would ....

To accomplish this activity would board the NOAA ship Hi'ialakai to film and photograph the Northwest Hawaiian Islands. Underwater and topside filming along with interviews of our talent, researchers, and scientist would be done in strict observance and respect to the guidelines of the Monument.

c.) This activity would help the Monument by ...

This activity would help the Monument by informing and educating the public of the value of the Monument, both from a sustainable and cultural aspect. We intend to create public awareness and interest for the Monument by documenting this month long voyage of a TBD professional freediver.

**Other information or background:** Our mission, whether it be through television or print media, is to create a legacy for future generations to follow, to respect and care for our precious natural resources. We hope our views align with the Monument's goals, as we pursue the task of exponentially applying the knowledge we glean from this mission. (A copy of edited episodes and related articles of this project will be provided to NOAA for non-commercial use purposes).

**Section A - Applicant Information**

**1. Applicant**

Name (last, first, middle initial): Nakamoto, Kyle, K.

Title: Executive Producer & Cameraman

**1a. Intended field Principal Investigator (See instructions for more information):**

Kyle Nakamoto

**2. Mailing address (street/P.O. box, city, state, country, zip):**

[REDACTED]

Phone:

[REDACTED]

Fax:

[REDACTED]

Email:

[REDACTED]

For students, major professor's name, telephone and email address: Not applicable

**3. Affiliation (institution/agency/organization directly related to the proposed project):**

Red Sea Ocean Adventures

[REDACTED]

**4. Additional persons to be covered by permit. List all personnel roles and names (if known at time of application) here (e.g. John Doe, Research Diver; Jane Doe, Field Technician):**

(1) TBD professional freediver



**Section B: Project Information**

**5a. Project location(s):**

<input checked="" type="checkbox"/> Nihoa Island	<input checked="" type="checkbox"/> Land-based	<input checked="" type="checkbox"/> Shallow water	<input checked="" type="checkbox"/> Deep water
<input checked="" type="checkbox"/> Necker Island (Mokumanamana)	<input checked="" type="checkbox"/> Land-based	<input checked="" type="checkbox"/> Shallow water	<input checked="" type="checkbox"/> Deep water
<input checked="" type="checkbox"/> French Frigate Shoals	<input checked="" type="checkbox"/> Land-based	<input checked="" type="checkbox"/> Shallow water	<input checked="" type="checkbox"/> Deep water
<input checked="" type="checkbox"/> Gardner Pinnacles	<input checked="" type="checkbox"/> Land-based	<input checked="" type="checkbox"/> Shallow water	<input checked="" type="checkbox"/> Deep water
<input checked="" type="checkbox"/> Maro Reef			
<input checked="" type="checkbox"/> Laysan Island	<input checked="" type="checkbox"/> Land-based	<input checked="" type="checkbox"/> Shallow water	<input checked="" type="checkbox"/> Deep water
<input checked="" type="checkbox"/> Lisianski Island, Neva Shoal	<input checked="" type="checkbox"/> Land-based	<input checked="" type="checkbox"/> Shallow water	<input checked="" type="checkbox"/> Deep water
<input checked="" type="checkbox"/> Pearl and Hermes Atoll	<input checked="" type="checkbox"/> Land-based	<input checked="" type="checkbox"/> Shallow water	<input checked="" type="checkbox"/> Deep water
<input checked="" type="checkbox"/> Midway Atoll	<input checked="" type="checkbox"/> Land-based	<input checked="" type="checkbox"/> Shallow water	<input checked="" type="checkbox"/> Deep water
<input checked="" type="checkbox"/> Kure Atoll	<input checked="" type="checkbox"/> Land-based	<input checked="" type="checkbox"/> Shallow water	<input checked="" type="checkbox"/> Deep water
<input type="checkbox"/> Other			

NOTE: There is a fee schedule for people visiting Midway Atoll National Wildlife Refuge via vessel and aircraft.

**Location Description:**

Filming and photographing of coral, marine, scenic and limited wildlife on the atolls stated above. All land-based activities would be conducted in accordance with Monument rules and escorts where necessary.

**5b. Check all applicable regulated activities proposed to be conducted in the Monument:**

- ☐ Removing, moving, taking, harvesting, possessing, injuring, disturbing, or damaging any living or nonliving Monument resource
- ☐ Drilling into, dredging, or otherwise altering the submerged lands other than by anchoring a vessel; or constructing, placing, or abandoning any structure, material, or other matter on the submerged lands
- ☐ Anchoring a vessel
- ☐ Deserting a vessel aground, at anchor, or adrift
- ☐ Discharging or depositing any material or matter into the Monument
- ☐ Touching coral, living or dead
- ☐ Possessing fishing gear except when stowed and not available for immediate use during passage without interruption through the Monument
- ☐ Attracting any living Monument resource
- ☐ Sustenance fishing (Federal waters only, outside of Special Preservation Areas, Ecological Reserves and Special Management Areas)
- ☐ Subsistence fishing (State waters only)
- ☒ Swimming, snorkeling, or closed or open circuit SCUBA diving within any Special Preservation Area or Midway Atoll Special Management Area

**6 Purpose/Need/Scope *State purpose of proposed activities:***

Filming and photographing coral, marine, and wildlife for television program, "HAWAII SKIN DIVER". Our goals include: 1. Providing public awareness about the monument. The Monument is not immediately accessible to the general public and many are still unaware of what it includes and reason for its creation. 2. Document Marine life in its natural habitats. This would include predatory sharks, giant trevally schooling, Sea turtles, monk seals (contingent upon approval from NOAA National Marine Fisheries Service), and other endemic and invasive species. Variety of corals including soft corals and black coral will also be target. Also filming of bird life with albatross nesting in high definition format.

**7. Answer the Findings below by providing information that you believe will assist the Co-Trustees in determining how your proposed activities are compatible with the conservation and management of the natural, historic, and cultural resources of the Monument:**

A summary of our activities to be done will reinforce the goals of the monument by supporting views of stewardship of our natural, historic, and cultural resources.

The Findings are as follows:

a. How can the activity be conducted with adequate safeguards for the cultural, natural and historic resources and ecological integrity of the Monument?

All safeguards within the Monument or on board our NOAA vessel will be strictly adhered to by our crew. We will be providing a checklist of items for each person to review prior to entering each location. We will treat all cultural resources within the Monument with respect, fully appreciating the fact that natural resources are also cultural resources and respect must be given to all plants and animals on land and in the ocean, as well as actual cultural sites. We will also avoid all cultural and historic sites (e.g. heiau and shipwrecks).

b. How will the activity be conducted in a manner compatible with the management direction of this proclamation, considering the extent to which the conduct of the activity may diminish or enhance Monument cultural, natural and historic resources, qualities, and ecological integrity, any indirect, secondary, or cumulative effects of the activity, and the duration of such effects? Each activity done by our crew and divers will be done with minimum impact to the environment. Divers primarily will be freediving/snorkeling minimizing any impact to coral reefs or marine life. On occasional dives Scuba will be used for filming but only for limited shots as needed. We will avoid any direct contact to any cultural or historic sites and be adhering to required protocols of entering the Monument. All bio-security issues shall be adhered to by all crew with observance of taking proper care with camera gear and keeping best practices in mind.

c. Is there a practicable alternative to conducting the activity within the Monument? If not, explain why your activities must be conducted in the Monument.

Our purpose to educate and inform the public on the importance of conservation and creating sustainable environments can only be communicated by the visuals taken in the Monument. The comparison of our current reefs in the Hawaiian Islands as compared to the reefs in the

Monument is vital to the storyline of the show. This type of footage can only be found within the water of the Monument.

d. How does the end value of the activity outweigh its adverse impacts on Monument cultural, natural and historic resources, qualities, and ecological integrity?

We do not anticipate any negative impacts to the Monument by our activities or film crew. The outreach of approximately 1/2 million households throughout the Hawaiian Islands with the message of caring for our ocean and its resources is best communicated at a grass roots level. Our program now on our eighth season on Time Warner Cable station channel 16 has developed a wide audience locally and internationally via Time Warner Cables online streaming capabilities and continues to be one their top rated shows. This message of conservation will be clearly communicated in our featured episodes which will viewed and appreciated by people of all ages. The platform we have established will be a great avenue for future generations to learn from.

e. Explain how the duration of the activity is no longer than necessary to achieve its stated purpose.

The duration will be limited to the NOAA ship Hi'ialakai stay to which the above atolls can be observed pending favorable weather conditions. Scientific research will be done on board Hi'ialakai of which we will be working around their schedule. The approximately 30-day filming will allow the best opportunities to capture the required shots for our episodes.

f. Provide information demonstrating that you are qualified to conduct and complete the activity and mitigate any potential impacts resulting from its conduct.

Executive Producer and Cameraman Kyle Nakamoto is proven as a expert in underwater videography. Having filmed and produced over eighty five Hawaii Skin Diver episodes throughout the world including but not limited to the Hawaiian Islands, Asia, South Pacific, and Micronesia. He is well accustomed to traveling and living on boats.

g. Provide information demonstrating that you have adequate financial resources available to conduct and complete the activity and mitigate any potential impacts resulting from its conduct. Costs incurred during our time on board the vessel are minimum. Lodging, food, and water is provided for by NOAA. We have the financial support of Red Sea Ocean Adventures and travel insurance policies in place in case of any emergencies and/or medical expenses.

h. Explain how your methods and procedures are appropriate to achieve the proposed activity's goals in relation to their impacts to Monument cultural, natural and historic resources, qualities, and ecological integrity.

Our methods and procedures will be observed and overseen by the on Chief Scientist and researchers and if any questionable concerns arise, their recommendations will be sought before entering in any part of the Monument.

i. Has your vessel has been outfitted with a mobile transceiver unit approved by OLE and complies with the requirements of Presidential Proclamation 8031?

The NOAA vessel Hi'ialakai does have an approved transceiver unit and complies with the requirements.

j. Demonstrate that there are no other factors that would make the issuance of a permit for the activity inappropriate.

I hereby state that all best practices toward adhering to all guidelines set forth by the Monument shall be observed and practiced by our crew.

**FOR SPECIAL OCEAN USE ACTIVITIES OUTSIDE OF MIDWAY ATOLL SPECIAL MANAGEMENT AREA**

k. Will the activity directly benefit the conservation and management of the Monument?  
Yes, the activity will provide benefit by increasing the public awareness of the Monument.

l. Is the purpose of the activity for research or education related to the resources or qualities of the Monument?

The activity will primarily support the education of the Monument by creating public awareness to people who have never been there.

m. Does the activity involve the use of a commercial passenger vessel (defined as a vessel that carries individuals who have paid for such carriage)?

No, the vessel will be NOAA boat Hi'ialakai.

**FOR SPECIAL OCEAN USE ACTIVITIES WITHIN MIDWAY ATOLL SPECIAL MANAGEMENT AREA**

n. Does the activity further the conservation and management of the Monument?  
Yes, the activity will provide benefit by increasing the public awareness of the Monument.

o. Is your activity compatible with the purposes for which the Midway Atoll National Wildlife Refuge was designated?

Yes the activity is compatible with the purposes for which Midway Atoll National Wildlife Refuge was designated as it aims to document the Monument's natural resources. Filming at Midway Atoll is one of the "approved" activities in the Midway Atoll Visitor Services Plan.

**NOTE: If this is a first time Special Ocean Use activity, it will be subject to a pilot project. Additionally, public notice of the application and an opportunity to provide comments is given at least 30 days prior to issuing the permit.**

**8. Procedures/Methods:**

Underwater filming will be done primarily by freediving off a smaller boat. ie: tender or zodiac. On occasion scuba will be used if necessary deeper dives are being done or if longer length of filming shots are needed.

Topside filming will be done by main vessel or tenders. Waterproof cases will be provided when transporting camera gear from vessel to tenders.

Filming onshore will be done with the guidance of a NOAA researcher. Any precautions while observing wildlife will be strictly adhered to by our film crew.

**9. Provide proof of general liability insurance, or indicate that you will be posting an equivalent bond against claims arising out of activities conducted under the permit:**  
To be provided separately to permit coordinators.

**10. If applicable, describe how you are collaborating with others in any way to reduce duplicative activities in the Monument or elsewhere?**

We have met with NOAA Chief Scientist and media photographer to discuss previous types of footage/photographs taken on past trips to the Monument. The uniqueness of our storyline to have a professional freediver share their experience learning about the Monument and variety of Marine life will be documented on this trip.

**11. List all specialized gear and materials to be used in this activity:**

Video Equipment: Sony High Definition Video Cameras, Gates and Sea & Sea Underwater Housings, and Go Pro Hero cameras.

Audio equipment: Sony wireless lavalier and Sennheiser boom microphone

Digital photography equipment: Canon and Sea & Sea digital camera with wide angle and telephoto lens.

Accessories: Batteries, battery chargers, tripod, laptop computer, external drive and light screen

Dive gear: Wetsuits, mask, snorkel, weight belt, dive float, knife, and fins.

**12. List all Hazardous Materials you propose to take to and use within the Monument:**  
None

**13. Describe any fixed installations and instrumentation proposed to be set in the Monument:**  
None

**14. List all Applicants' publications directly related to the proposed project:**  
Hawaii Skin Diver Magazine  
Lawai'a Magazine

With knowledge of the penalties for false or incomplete statements, as provided by 18 U.S.C. 1001, and for perjury, as provided by 18 U.S.C. 1621, I hereby certify to the best of my abilities under penalty of perjury of that the information I have provided on this application form is true and correct. I agree that the Co-Trustees may post this application in its entirety on the Internet. I understand that the Co-Trustees will consider deleting all information that I have identified as “confidential” prior to posting the application.

---

Signature

Date

**SEND ONE SIGNED APPLICATION VIA MAIL TO THE MONUMENT OFFICE  
BELOW:**

Papahānaumokuākea Marine National Monument Permit Coordinator  
6600 Kalaniana'ole Hwy. # 300  
Honolulu, HI 96825  
FAX: (808) 397-2662

**DID YOU INCLUDE THESE?**

- ☐ Applicant CV/Resume/Biography
- ☐ Intended field Principal Investigator CV/Resume/Biography
- ☒ Electronic and Hard Copy of Application with Signature
- ☐ Statement of information you wish to be kept confidential
- ☐ Material Safety Data Sheets for Hazardous Materials

## **Papahānaumokuākea Marine National Monument Compliance Information Sheet**

**1. Updated list of personnel to be covered by permit. List all personnel names and their roles here (e.g. John Doe, Diver; Jane Doe, Field Technician, Jerry Doe, Medical Assistant):** Kyle Nakamoto, Cameraman/Diver; Kimi Werner, Diver

**2. Specific Site Location(s): (Attach copies of specific collection locations):** Nihoa Island, Necker Island, French Frigate Shoals, Gardener Pinnacles, Maro Reef, Laysan Island, Lisianski Island, Neva Shoal, Pearl and Hermes Atoll, and Midway Atoll.

**3. Other permits (list and attach documentation of all other related Federal or State permits):** NA

**3a. For each of the permits listed, identify any permit violations or any permit that was suspended, amended, modified or revoked for cause. Explain the circumstances surrounding the violation or permit suspension, amendment, modification or revocation.** NA

**4. Funding sources (Attach copies of your budget, specific to proposed activities under this permit and include funding sources. See instructions for more information):** Logistical accommodations is sponsored by NOAA office.

**5. Time frame:**

Activity start: August 29, 2011

Activity completion: September 22, 2011

Dates actively inside the Monument:

From: August 29, 2011

To: September 22, 2011

Describe any limiting factors in declaring specific dates of the proposed activity at the time of application: Weather conditions will dictate arrival at various atolls.

Personnel schedule in the Monument: Dependant upon NOAA research team.

**6. Indicate (with attached documentation) what insurance policies, bonding coverage, and/or financial resources are in place to pay for or reimburse the Monument trustees for the necessary search and rescue, evacuation, and/or removal of any or all persons covered by the permit from the Monument:** CSA Insurance policy no. 10259P0314-001 coverage of \$50,000 medivac, \$10,000 medical expenses, \$25,000 Accidental death. Copy to be sent to NOAA office prior to departure.

**7. Check the appropriate box to indicate how personnel will enter the Monument:**

- ☒ Vessel  
☐ Aircraft

Provide Vessel and Aircraft information: Hi'ialakai NOAA Vessel, Permit no. PMNM-2011-009

**8. The certifications/inspections (below) must be completed prior to departure for vessels (and associated tenders) entering the Monument. Fill in scheduled date (attach documentation):**

- ☐ Rodent free, Date:  
☐ Tender vessel, Date:  
☐ Ballast water, Date:  
☐ Gear/equipment, Date:  
☐ Hull inspection, Date:

**9. Vessel information (NOTE: if you are traveling aboard a National Oceanic and Atmospheric Administration vessel, skip this question):**

Vessel name:

Vessel owner:

Captain's name:

IMO#:

Vessel ID#:

Flag:

Vessel type:

Call sign:

Embarkation port:

Last port vessel will have been at prior to this embarkation:

Length:

Gross tonnage:

Total ballast water capacity volume (m3):



Total number of ballast water tanks on ship:  
Total fuel capacity:  
Total number of fuel tanks on ship:  
Marine Sanitation Device:  
Type:

Explain in detail how you will comply with the regulations regarding discharge in the Monument. Describe in detail. If applicable, attach schematics of the vessel's discharge and treatment systems:

Other fuel/hazardous materials to be carried on board and amounts:

Provide proof of a National Oceanic and Atmospheric Administration (NOAA) Office of Law Enforcement-approved Vessel Monitoring System (VMS). Provide the name and contact information of the contractor responsible for installing the VMS system. Also describe VMS unit name and type:

VMS Email:  
Inmarsat ID#:

\* Individuals MUST ENSURE that a type-approved VMS unit is installed and that its automatic position reports are being properly received by the NOAA OLE system prior to the issuance of a permit. To make sure your VMS is properly configured for the NOAA OLE system, please contact NOAA OLE at (808) 203-2503 or (808) 203-2500.

\* PERMITS WILL NOT BE ISSUED TO INDIVIDUALS ENTERING THE MONUMENT VIA VESSEL UNTIL NOAA OLE HAS CONTACTED THE MONUMENT PERMIT COORDINATOR WITH A 'POSITIVE CHECK' READING.

#### **10. Tender information:**

On what workboats (tenders) will personnel, gear and materials be transported within the Monument? List the number of tenders/skiffs aboard and specific types of motors: NA

### **Additional Information for Land Based Operations**

**11. Proposed movement of personnel, gear, materials, and, if applicable, samples:**  
Use of NOAA tenders to transport gear from vessel to shore on Tern Island and Midway Atoll.

**12. Room and board requirements on island: NA**

**13. Work space needs: NA**

**DID YOU INCLUDE THESE?**

- ☐ Map(s) or GPS point(s) of Project Location(s), if applicable
- ☐ Funding Proposal(s)
- ☐ Funding and Award Documentation, if already received
- ☐ Documentation of Insurance, if already received
- ☐ Documentation of Inspections
- ☐ Documentation of all required Federal and State Permits or applications for permits




STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
DIVISION OF AQUATIC RESOURCES  
1151 PUNCHBOWL STREET, ROOM 330  
HONOLULU, HAWAII 96813

August 12, 2011

TO: Division of Aquatic Resources File

THROUGH: William J. Aila, Jr., Chairperson

FROM:  Francis Oishi  
Division of Aquatic Resources

DECLARATION OF EXEMPTION FROM THE PREPARATION OF AN ENVIRONMENTAL ASSESSMENT  
UNDER THE AUTHORITY OF CHAPTER 343, HRS AND CHAPTER 11-200 HAR, FOR  
PAPAHĀNAUMOKUĀKEA MARINE NATIONAL MONUMENT SPECIAL OCEAN USE PERMIT TO KYLE  
K. NAKAMOTO, RED SEA OCEAN ADVENTURES, FOR ACCESS TO STATE WATERS TO DOCUMENT  
FIELDWORK AND CONDUCT FILMING ACTIVITIES  
UNDER PERMIT PMNM-2011-038

The following permitted activities are found to be exempted from preparation of an environmental assessment under the authority of Chapter 343, HRS and Chapter 11-200, HAR:

Project Title:

Papahānaumokuākea Marine National Monument Special Ocean Use Permit to Kyle K. Nakamoto, Red Sea Ocean Adventures, for Access to State Waters to Document Fieldwork and Conduct Filming Activities

Permit Number: PMNM-2011-038

Project Description:

The special ocean use permit application, as described below, would allow entry and activities to occur in Papahānaumokuākea Marine National Monument (Monument), including the NWHI State waters from August 25, 2011 through September 30, 2011.

The project would develop two 30-minute episodes for the television program "Hawaii Skin Diver". These episodes would feature a professional freediver, as they explore Papahānaumokuākea Marine National Monument and learn about the important role this area plays in Hawaii's past, present, and future. Activities would include filming of Monument resources as well as interviews with researchers. The proposed goal of this project would be to create awareness of Hawaii's fragile ocean resources. Alongside the television program, this activity would also provide media for articles in "HAWAII SKIN DIVER" magazine and "LAWAI'A" magazine.

WILLIAM J. AILA, JR.  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

GUY KAULUKUKUI  
FIRST DEPUTY

WILLIAM M. TAM  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAIHOLAWA ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

The proposed activities are in direct support the Monument Management Plan's priority management needs through action plan 3.5.2 – Constituency Building and Outreach. The Constituency Building and Outreach Action Plan specifies to support efforts to broaden knowledge of and appreciation for Monument resources. Activities to support outreach, including “bringing the place to the people” through filmmaking and photography, as well as the magazine articles and television series programming to be carried out by the permittee, are addressed in the Monument Management Plan Environmental Assessment. This EA summarizes that engaging Monument constituencies through integrated communications and would result in a beneficial effect on the Monument's natural resources (PMNM MMP Vol 2, p.170).

Consulted Parties:

The permit application was sent out for review and comment to the following scientific and cultural entities: Hawaii Division of Aquatic Resources, Hawaii Division of Forestry and Wildlife, Papahānaumokuākea Marine National Monument (NOAA/NOS), NOAA Pacific Islands Regional Office (NOAA-PIRO), United States Fish and Wildlife Service Hawaiian and Pacific Islands National Wildlife Refuge Complex Office, and the Office of Hawaiian Affairs (OHA). In addition, the permit application has been posted on the Monument Web site since June 10th, giving the public an opportunity to comment. The application was posted within 40 days of its receipt, in accordance with the Monument's Public Notification Policy.

Exemption Determination:

After reviewing HAR § 11-200-8, including the criteria used to determine significance under HAR § 11-200-12, DLNR has concluded that the activities under this permit would have minimal or no significant effect on the environment and that issuance of the permit is categorically exempt from the requirement to prepare an environmental assessment based on the following analysis:

1. All activities associated with this permit, including filming and photography, have been evaluated as a single action. As a preliminary matter, multiple or phased actions, such as when a group of actions are part of a larger undertaking, or when an individual project is precedent to or represents a commitment to a larger project, must be grouped together and evaluated as a single action. HAR § 11-200-7. This permit does not involve an activity that is precedent to a later planned activity.

2. The Exemption Class for Basic Data Collection with no Serious or Major Environmental Disturbance Appears to Apply. Chapter 343, HRS, and section 11-200-8, HAR, provide for a list of classes of actions exempt from environmental assessment requirements. HAR §11-200-8.A.5. specifically exempts the class of actions which involve “basic data collection, research, experimental management, and resource evaluation activities, which do not result in a serious or major disturbance to an environmental resource.” This exemption class has been interpreted to include photographing and recording activities, such as those being proposed.

The proposed filming and photography activities here appear to fall squarely under the exemption class #5, exempt item #4 as described under the former Fish and Game Division exemption list published in January 19, 1976. Filming and photography are considered data collection. As discussed below, no significant disturbance to any environmental resource is

anticipated in either the filming or photographing of Monument resources. Thus, so long as the below considerations are met, an exemption class should include the action now contemplated.

3. Cumulative Impacts of Actions in the Same Place and Impacts with Respect to the Potentially Particularly Sensitive Environment Will Not be Significant. Even where a categorical exemption appears to include a proposed action, the action cannot be declared exempt if “the cumulative impact of planned successive actions in the same place, over time, is significant, or when an action that is normally insignificant in its impact on the environment may be significant in a particularly sensitive environment.” HAR § 11-200-8.B. To gauge whether a significant impact or effect is probable, an exempting agency must consider every phase of a proposed action, any expected primary and secondary consequences, the long-term and short-term effects of the action, the overall and cumulative effect of the action, and the sum effects of an action on the quality of the environment. HAR § 11-200-12. Examples of actions which commonly have a significant effect on the environment are listed under HAR § 11-200-12.

Since the designation of the Monument, five filming and photography projects have been undertaken to date in State waters. There were no deleterious effects from the previous projects. Permittees conducting these activities are always escorted while in the field and no collections are allowed. With this in mind, significant cumulative impacts are not anticipated as a result of this activity, and numerous safeguards further ensure that the potentially sensitive environment of the project area will not be significantly affected. All activities will be conducted in a manner compatible with the management direction of the Monument Proclamation in that the activities do not diminish monument resources, qualities, and ecological integrity, or have any indirect, secondary, cultural, or cumulative effects. The joint permit review process did not reveal any anticipated indirect or cumulative impacts, nor did it raise any cultural concerns, that would occur as a result of these activities.

The activities would be conducted from the NOAA Ship HI'IALAKAI (PMNM-2011-009) during its September cruise. The following table lists additional activities that are anticipated to take place on this cruise pending approval of permit applications.

**Table 1. Concurrent Projects Aboard NOAA SHIP HI'IALAKAI**

<b>Permit</b>	<b>Purpose and Scope</b>	<b>Location</b>
PMNM-2011-009 NOAA Ship HI'IALAKAI	The permit allows NOAA Ship HI'IALAKAI entry into PMNM. Personnel aboard the vessel will be permitted under separate permits.	All locations
PMNM-2011-018 Meyer (proposed)	The proposed action is to allow collection of reef fish and tagging of top predators as well as acoustic receiver deployment	All locations
PMNM-2011-019 Valenzuela (proposed)	The proposed action is to allow filming activities for use on public television stations	All locations
PMNM-2011-026 Rossiter (proposed)	The proposed action is to allow collection of live coral and fish.	All locations
PMNM-2011-42 Kosaki (proposed)	The proposed action is to allow collection of unidentifiable specimens located on deep reefs	All locations
PMNM-2011-025 Bowen (proposed)	The proposed action is to allow collection of specific reef fish, invertebrate and algal species	All locations
PMNM-2011-24 Gleason (proposed)	The proposed action is to survey and monitor maritime heritage sites	All locations

One additional proposed activities, Valenzuela (PMNM-2011-019), would include filming during this time span and needs to be considered when reviewing this proposed activity. The impacts of these filming and photography activities considered both individually and together would be very minimal. Both activities are targeted at reaching the general public through different techniques- news media, special television programming, and specialty magazine print articles. As such, it would be fine to have these similar activities occurring concurrently. In addition, the diversity of these filming projects would only serve to enhance efforts to reach broad audiences with information about the Monument and its resources.

The culmination of these permits, and their disparate activities, occurring throughout the Monument over a 4-week period, is not anticipated to have significant cumulative impacts. The NOAA Ship OSCAR ELTON SETTE (PMNM-2011-008) may also be in the Monument during this time frame facilitating needs of the monk seal camps under the Managers' permit (PMNM-2011-001).

Since no significant cumulative impacts or significant impacts with respect to any particularly sensitive aspect of the project area are anticipated, the categorical exemptions identified above should remain applicable.

4. Overall Impacts will Probably be Minimal and Insignificant. Any foreseeable impacts from the proposed activity will probably be minimal, and further mitigated by general and specific conditions attached to the permit. Specifically, all filming activities covered by this permit will be carried out with strict safeguards for the natural, historic, and cultural resources of the Monument as required by Presidential Proclamation 8031, other applicable law and agency policies and standard operating procedures.

Conclusion. Upon consideration of the permit to be approved by the Board of Land and Natural Resources, the potential effects of the above listed project as provided by Chapter 343, HRS and Chapter 11-200 HAR, have been determined to be of probable minimal or no significant effect on the environment and exempt from the preparation of an environmental assessment.

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William J. Aila, Jr.  
Board of Land and Natural Resources

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Date